

CIVIL COVER SHEET

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

HEALTHCARE SERVICES GROUP, INC.

DEFENDANTSHIGHLANDS NURSING AND REHABILITATION CENTER, LLC,
d/b/a HIGHLANDS NURSING AND REHABILITATION(b) County of Residence of First Listed Plaintiff Bucks
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Jefferson (Kentucky)

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Craig A. Hirnisen, Esquire, Stevens & Lee

111 North Sixth Street, P.O. Box 679, Reading, PA 19603

(610) 478-2229

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input checked="" type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. Section 1332

Brief description of cause:

Breach of Contract

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$
 \$107,490, plus interest, attorneys fees, and costs

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

10/22/2012

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

Steven J. Adams, Esquire
Attorney I.D. No. 56293
Craig A. Hirneisen, Esquire
Attorney I.D. No. 209108
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Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HEALTHCARE SERVICES GROUP, INC., :

Plaintiff, :

v. :

HIGHLANDS NURSING AND
REHABILITATION CENTER, LLC, d/b/a
HIGHLANDS NURSING AND
REHABILITATION, :

Defendant. :

CIVIL ACTION NO.

COMPLAINT

Plaintiff Healthcare Services Group, Inc. (“HCSG” or “Plaintiff”), by and through its counsel, Stevens & Lee, P.C. complaining against Defendant, avers as follows:

1. HCSG is a Pennsylvania corporation with its principal place of business at 3220 Tillman Drive, Suite 300, Bensalem, Pennsylvania 19020.
2. Defendant Highlands Nursing and Rehabilitation Center, LLC, d/b/a Highlands Nursing and Rehabilitation (“Highlands” or “Defendant”), is a Kentucky limited liability company with a last known address of 1705 Stevens Avenue, Louisville, Kentucky 40205.

3. Highlands operates a residential health care facility (the “**Facility**”) at 1705 Stevens Avenue, Louisville, Kentucky 40205.

JURISDICTION AND VENUE

4. The Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1332 because the parties are citizens of different states and the matter in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.

5. This Court has personal jurisdiction over Highlands under Pennsylvania’s long-arm statutes, 42 Pa. C.S.A. § 5301 and 42 Pa. C.S.A. § 5322, and the United States Constitution.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(a) because a substantial part of the events and omissions giving rise to this action occurred in the Eastern District of Pennsylvania.

7. Moreover, Highlands consented to the exclusive jurisdiction and venue of this action in the United States District Court for the Eastern District of Pennsylvania or the Court of Common Pleas of Bucks County pursuant to Section 6.6 of the Service Agreement (hereinafter defined).

The Service Agreement

8. On or about February 3, 2012, HCSG and Highlands entered into a Housekeeping/Laundry Service Agreement (the “**Service Agreement**”).

9. A true and correct copy of the Service Agreement is attached hereto, marked as Exhibit “A” and incorporated herein by reference.

10. Pursuant to Section 1 of the Service Agreement, HCSG agreed to provide all necessary management, supervision, labor, and materials necessary to perform housekeeping and laundry services on the premises of Highlands’ Facility.

11. Pursuant to Section 2 of the Service Agreement, Highlands was required to pay HCSG the sum of \$468,000.00 per year, to be paid in monthly payments in the amount of \$39,000.00 in consideration of HCSG providing the aforementioned services to Highlands.

12. Pursuant to Section 3 of the Service Agreement, the term of the Service Agreement commenced on March 1, 2012 and continued unless cancelled by either party. The Service Agreement could be cancelled by either party 120 days after the services began, provided a thirty (30) day written notice was given.

13. On or about September 24, 2012, a new company—Diversicare—took over the operations of the Facility from Highlands.

Highland's Failure to Pay Monies Due to HCSG Under the Services Agreement

14. Highlands has failed to pay HCSG for all of the services rendered by HCSG to Highlands pursuant to the Service Agreement in accordance with the terms of the Service Agreement.

15. The failure of Highlands to make payments to HCSG when due under the Service Agreement constitutes a breach of that agreement.

16. As a direct and proximate result of Highlands' breach of its contractual duties, HCSG has been and continues to be damaged.

17. As of October 17, 2012, the total outstanding, past due indebtedness owed by Highlands to HCSG pursuant to the Service Agreement was \$107,490.00.

18. Section 6.10 of the Service Agreement provides that "If suit is brought to enforce any of the terms or conditions of this [Service] Agreement, the prevailing party shall be entitled to recover such sums as the court may fix as costs and reasonable attorney fees, in addition to any other relief to which it may be entitled."

WHEREFORE, plaintiff Healthcare Services Group, Inc., demands that judgment be entered in its favor against defendant Highlands Nursing and Rehabilitation Center, LLC, in the amount of \$107,490.00, plus interest, reasonable attorneys' fees, and costs of suit.

STEVENS & LEE

By 

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Attorneys for Plaintiff
Healthcare Services Group, Inc.

Exhibit A

HIGHL 14

HOUSEKEEPING/LAUNDRY SERVICE AGREEMENT

AGREEMENT, made this 3RD day of February, 2012 by and between HEALTHCARE SERVICES GROUP, INC. (hereinafter referred to as "Healthcare"), a Pennsylvania corporation, with offices at 3220 Tillman Drive, Glenview Corporate Center, Suite 300, Bensalem, PA 19020

and

Highlands Nursing and Rehab Center, LLC a Kentucky Limited Liability Company (hereinafter referred to as "Client"), which operates the nursing home d/b/a Highlands Nursing and Rehabilitation located at 1705 Stevens Ave, Louisville, KY, 40205 (hereinafter referred to as the "Facility").

The parties hereto, intending to be legally bound, agree as follows:

1. SCOPE OF WORK:

Healthcare will provide all management, supervision, labor and materials necessary to perform the housekeeping and laundry services on the premises of the Facility. Ownership of all existing housekeeping equipment is transferred to and will be utilized by Healthcare in performing its duties. Any repair of, replacement of, or addition to, housekeeping equipment will be Healthcare's responsibility. The value and utilization of the existing housekeeping equipment was a consideration in determining the service price.

The scope of work described will be in compliance with the specifications and schedules attached hereto as Exhibits I and II to this Agreement.

2. AGREEMENT AMOUNT:

In consideration of Healthcare providing the aforesaid services, Client will pay to Healthcare the sum of \$ 468,000.00 per year (based on a 365 day year), said sum to be paid in monthly payments, with payments due in the amount of \$ 39,000.00 on the last date through which the monthly services are rendered. Sales taxes, if applicable, will be added to the service billing and Healthcare shall be responsible for remittance of such taxes to the proper authorities. Healthcare and Client agree to review the service billing amount annually.

3. TERM:

The term of this Agreement shall commence on 3/1/2012 and will continue unless terminated as herein provided. This Agreement can be canceled by either party at any time after 120 days after the services begin, upon 30 days written notice. No notice of cancellation by Client shall be effective unless accompanied by payment of all amounts then due and owing to Healthcare for services provided up to and including the date of the notice. All other amounts due to Healthcare, including for services provided up to and including the effective date of the cancellation, shall be due and payable on the effective date of cancellation.

4. INSURANCE COVERAGE, EMPLOYEE TAXES, RATES AND BENEFITS:

Healthcare will comply with all applicable Federal, state and local laws and regulations (including minimum wage requirements) regarding employment, compensation,

benefits and payment of its employees. Healthcare will pay FICA, FUTA and worker's compensation and all applicable payroll and other taxes for its employees. Notwithstanding any adjustments in paragraph 2, should any Federal, state or locally mandated increase occur in any of these categories the service billing will be adjusted to reflect these changes. Healthcare will notify Client in writing of the increase and effective dates of these changes.

5. CLIENT COOPERATION:

During the term this Agreement, the Facility will be fully available to Healthcare so that the aforesaid services may be performed by Healthcare. Further, during the term of this Agreement, Customer will provide the necessary utilities, including but not limited to electricity and water, and reasonable access to the Facility's telecommunications, computer, e-mail, voice mail and similar systems, as necessary for Healthcare to perform the services.

6. GENERAL PROVISIONS:

- 6.1 Any notices given by either party to the other shall be given by mail (which shall be registered or certified, postage prepaid, with return receipt requested) or by courier. Notices by mail or courier shall be sent to the recipient at the address in the introductory paragraph of this Agreement and shall be deemed given five (5) days after mailing. Notices by courier shall be deemed given on the business day after delivery. Each party may change its address by written notice in accordance with this paragraph.
- 6.2 Neither party, in the performance of this Agreement, shall discriminate against any patient, employee, or other person because of race color, creed, sex, ancestry national origin, or handicap. Both parties to this Agreement shall comply with the requirements of Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973.
- 6.3 Healthcare shall, until four years after the expiration of each contract year of this Agreement, upon written request, make available to the Secretary of the Department of Health and Human Services (HHS), or the Secretary's duly authorized representative, or upon request to the Controller General or the Controller General's duly authorized representatives this Agreement and such books documents and records pertaining to services provided during such contract year that are necessary to certify the nature and extent of costs under this Agreement. The availability of Healthcare's books, documents and records shall be subject at all times to such criteria and procedures for seeking or obtaining access as may be promulgated by the Secretary of HHS in regulations and other applicable laws. Healthcare's disclosure under this paragraph shall not be construed as a waiver of any other legal rights to which Healthcare or the Client may be entitled. Each party will notify the other within 10 days of receipt of a request for access.

If pursuant to this Agreement, any of Healthcare's duties and obligations are to be carried out by any individual or entity under a contract with Healthcare with a value of \$10,000 or more over a twelve month period, and that subcontractor is to a significant extent, associated or affiliated with, owns, or is owned by or has control of or is controlled by Healthcare, each such subcontractor shall itself be subject to the

access requirements and Healthcare shall require such subcontractor to meet the access requirements.

- 6.4 During the term of this Agreement, and for a period of one year after the termination of this Agreement, neither party shall hire management personnel (e.g. Account Managers, supervisors or District Managers) (a) still employed by the other; or (b) who had been employed by the other at any time within one year before or after the termination of this Agreement.
- 6.5 Healthcare and Client shall see that to the best of their ability the Facility's housekeeping and/or laundry departments are kept in compliance in all material respects with applicable state and federal regulations, to the extent within their respective control
- 6.6 This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Pennsylvania. Client consents to exclusive jurisdiction and venue in the Court of Common Pleas of Bucks County, Pennsylvania or the United States District Court for the Eastern District of Pennsylvania
- 6.7 This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, personal representatives and assigns. This Agreement may not be assigned by either party without the written consent of the other.
- 6.8 The parties executing this Agreement on behalf of their respective entities represent that they are authorized to sign this Agreement on behalf of such entity and that the other party is relying on such representation.
- 6.9 This Agreement supersedes any and all other agreements related to the services provided for herein, either oral or written between the parties hereto with respect to the engagement of Healthcare by the Client and contains all the covenants and agreements between the parties with respect to its subject matter. This Agreement shall not affect or modify any other agreements between the parties with respect to the payment of any existing debts or obligations owed by the Client to Healthcare.
- 6.10 Attorney Fees: If suit is brought to enforce any of the terms or conditions of this Agreement, the prevailing party shall be entitled to recover such sums as the court may fix as costs and reasonable attorney fees, in addition to any other relief to which it may be entitled.

IN WITNESS WHEREOF, the parties hereto, or their duly authorized officers or agents, have executed, sealed and delivered this Agreement, in duplicate, intending to be legally bound hereby.

Highlands Nursing and Rehabilitation
Center, LLC

Authorized
Signature: KAROLE Y. HAMILTON

Name: KAROLE Y. HAMILTON
Title: ADMINISTRATOR

Date: 2-3-2012

HEALTHCARE SERVICES GROUP,
INC.

Authorized
Signature: Brian Henriott

Name: Brian Henriott
Title: Regional Director

Date: 2/3/2012

EXHIBIT I

Full service housekeeping and laundry service

Healthcare Services Group, Inc. will provide:

- Full time Supervisor to oversee the services provided
- District Manager to oversee operation
- All staffing responsibility including:
 - a) Salaries/wages
 - b) Taxes
 - c) Fringe benefits
 - d) Uniforms
- All housekeeping supplies and equipment listed on Exhibit II
- All laundry chemicals including:
 - a) Detergent
 - b) Bleach
 - c) Softener
 - d) Sour

All laundry equipment repairs will be the responsibility of the Client.

District Manager to oversee the operations (weekly visit)

Regional Management Support Team (monthly visit)

Corporate/Divisional Visit (quarterly)

Healthcare Services Group agrees to average 649 (including manager's hours) labor hours weekly per month

Healthcare Services Group agrees to leave facility with all paper and plastic for month that is billed should termination of contract occur.

EXHIBIT II

The following is a list of supplies and chemicals provided by Healthcare Services Group, Inc.:

Germicidal Detergent	Dust Mops and Handles
All Purpose Degreaser	Dust Cloths
Degreaser	Mops and Mop Handles
Ammoniated Stripper	Buff Pads
Floor Finish	Stripping Pads
Sealer (22% Solid)	All supplementary tools for
Glass Cleaner	light housekeeping
Ammonia	All laundry chemicals
Cleanser	
Bowl Cleaner	
Furniture Polish	
Metal Polish	
Carpet Shampoo	

Equipment

3 New Vacuums	3 Personal Clothes Racks
2 New High Speed Burnishers	
1 New Auto-Scrubber	
1 New Slow Speed	
6 New Housekeeping Carts	
10 New Mop Buckets with Ringers	
12 New Mop Sticks w/extra heads	
2 Large Dust Mops Frames w/extra heads	
6 Small Dust Mops Frames w/extra heads	
30 Spray Bottles and Triggers	
9 Lobby Dust Pans	
3 Regular Brooms	
10 Long Scrapers	
20 Handheld Scrapers	
Buffing/Refinishing Pads	
Steel Wool Rolls	
10 Toilet Swab Kits	

All Housekeeping Equipment Repair & Replacement

Client will be responsible for the following supplies: